

Transit-Oriented Development Housing Program (TOD) Draft Guidelines

Summary of Program Updates

March 13, 2020

This document describes the rationale behind significant proposed changes to the TOD Program for funding authorized by Proposition 1 of 2018, and highlights topics on which the California Department of Housing and Community Development (the Department) is particularly interested in receiving comments.

The proposed changes are reflected in the draft TOD Guidelines, available at www.hcd.ca.gov.

Article 1. General

Section 101 – Program Overview

Chapter 365, Statutes 2017 (SB 3), adopted by voters on November 6, 2018, (Proposition 1), provides additional funding and authority for the TOD Program. These Guidelines apply only to funds made available through HSC Section 54006(b) and do not apply to funds made available to the TOD Program authorized by Part 13 (commencing with Section 53560) prior to the adoption of HSC Section 54006(b).

Definitions were updated to either align with other related HCD Programs (i.e., Affordable Housing and Sustainable Communities Program (AHSC), Infill Infrastructure Grant Program (IIG), and Multifamily Housing Program (MHP)), to make it clear that the statutory definitions apply, and/or to elaborate on new and unfamiliar concepts.

Section 102(a) – Definition of “Applicant”

The definition was added for better understanding and consistency with other Program updates.

Section 102(former b) – Definition of “BEGIN” or “BEGIN Program”

The definition was removed because TOD Program Round 4 Guidelines do not contain the homeownership component of the Program. The BEGIN Program is not active any longer.

Section 102(c) – Definition of “Bus Hub”

The definition was modified to make it clear that the statutory definition applies and for consistency with the AHSC Program.

Section 102(d) – Definition of “Bus Rapid Transit” or “BRT”

The definition was modified to provide clarity and add consistency with the AHSC Program.

Section 102(g) – Definition of “Covenant”

The definition was added for better understanding and consistency with other Program updates.

Section 102(h) – Definition of “Currently Developed”

The definition was added to provide clarity and add consistency with the AHSC Program.

Section 102(k) – Definition of “Developer”

The definition was added for better understanding and consistency with other Program updates.

Section 102(l) – Definition of “Disbursement Agreement”

The definition was added for better understanding and consistency with other Program updates.

Section 102(m) – Definition of “Eligible Households”

The definition was added for consistency with the MHP Program.

Section 102(n) – Definition of “Enforceable Funding Commitment”

The definition was partially modified for consistency with the AHSC Program.

Section 102(p) – Definition of “Grant”

The definition was added for better understanding and consistency with other Program updates.

Section 102(former k) – Definition of “Incremental Unit”

This definition was removed because reference to Incremental Units does not apply any longer.

Section 102(r) – Definition of “Infill Site”

The definition was added to provide clarity and add consistency with the AHSC Program.

Section 102(t) – Definition of “Key Destinations”

The definition was added to provide clarity and add consistency with the AHSC Program.

Section 102(u) – Definition of “Large City Downtown”

The definition was modified to add downtowns, central business districts, and/or core areas in local planning documents with populations higher than 300,000 people. The following cities were added to the list of Large City Downtowns: Bakersfield, Fresno, Riverside, and Stockton.

Section 102(v) – Definition of “Loan”

The definition was added for better understanding and consistency with other Program updates.

Section 102(y) – Definition of “Micromobility”

The definition was added for better understanding and consistency with other Program updates.

Section 102(aa) – Definition of “Net Density”

The definition was modified to provide clarity and add consistency with the AHSC Program.

Section 102(cc) – Definition of “Open Space”

The definition was added to provide clarity and add consistency with the IIG Program.

Section 102(dd) – Definition of “Opportunity Zone”

The definition was added to provide clarity.

Section 102(ee) – Definition of “Parks”

The definition was added to provide clarity and add consistency with the IIG Program.

Section 102(ff) – Definition of “Peak Hours”

The definition was modified to make it clear that the statutory definition applies.

Section 102(former ii) – Definition of “Project Area”

The definition was removed because reference to Project Area does not apply any longer.

Section 102(ji) – Definition of “Qualifying Transit Station”

The definition was added to provide clarity.

Section 102(kk) – Definition of “Recipient”

The definition was modified for consistency with the AHSC Program.

Section 102(former y) – Definition of “Recurrent Congestion”

This definition was removed because reference to Recurrent Congestion does not apply any longer.

Section 102(ll) – Definition of “Regulatory Agreement”

The definition was added for better understanding and consistency with other Program updates.

Section 102(mm) – Definition of “Rent”

The definition was added to provide clarity and add consistency with the MHP Program.

Section 102(nn) – Definition of “Rental Housing Development”

The definition was added to make it clear that the statutory definition applies and for consistency with the MHP Program.

Section 102(pp) – Definition of “Site Control”

The definition was added to provide clarity and add consistency with the AHSC Program.

Section 102(qq) – Definition of “Sponsor”

The definition was added to provide clarity and add consistency with the MHP Program.

Section 102(rr) – Definition of “Standard Agreement”

The definition was added for better understanding and consistency with other Program updates.

Section 102(ss) – Definition of “Substantial Rehabilitation”

The definition was modified to provide clarity and add consistency with the AHSC Program.

Section 102(uu) – Definition of “Transit Station”

The definition was modified to make it clear that the statutory definition applies.

Section 102(ww) – Definition of “Urban Service Area”

The definition was added to provide clarity.

Section 102(xx) – Definition of “Urban Uses”

The definition was added to provide clarity and add consistency with the AHSC Program.

Section 102(yy) – Definition of “Urbanized Area”

The definition was modified to make it clear that the statutory definition applies.

Article 2. Program Requirements

Section 103(a) – Eligible Projects, Housing Developments

This threshold criterion, which used to restrict eligible Housing Developments to at least 40 units, was revised to restrict eligible Housing Developments to 20 plus units to allow more innovative projects and create more flexibility for projects on new sites. Smaller developments can be as effective in encouraging transit use. While the AHSC Program (based on scoring with greenhouse gas (GHG) reductions) generally awards large Housing Development Projects, the TOD Program can now serve the same goal from a different angle by awarding smaller Housing Development Projects.

The requirement that a Housing Development must be located in an urbanized area with one or more freeway segments where there is Recurrent Congestion was removed to align with the AHSC Program methodology. The Department believes that TOD projects are also needed in the areas not outlined in the areas affected by recurrent congestion. Additionally, the recurrent congestion map dates back to 2008 and an updated version is not available on the Department of Transportation website.

Section 103(b) – Eligible Projects, Housing Developments

The requirement that a Housing Development may consist of scattered sites with different ownership entities was removed because a feasibility assessment of scattered sites with different ownerships may be too difficult to achieve within the Department's timeframe.

Section 103(c) – Eligible Projects, Infrastructure Projects

In order to facilitate catalytic projects, a list of eligible costs for Infrastructure Projects has been expanded to include a line of Capital Improvements to the Qualifying Transit Stations (QTS) that increase transit ridership. The list of Capital Improvements was aligned with the AHSC Program for consistency.

Section 103(d) – Eligible Projects, Infrastructure Projects

In response to stakeholder feedback, this section was revised to include only schools and replacement parking not required by a public agency among ineligible Infrastructure Projects.

Section 104(a) – Eligible Applicant

This section was added to clearly delineate eligible Applicants for TOD funds. The contents of the section mirror Section 106(c) in the TOD Round Three Guidelines.

Section 105 – Eligible Costs

Eligible costs for Rental Housing Developments were modified for consistency with the MHP Program.

Eligible and ineligible costs for Infrastructure Projects were modified for consistency with the IIG Program.

Section 106(a) – Assistance Terms and Limits

The maximum Program Loan and Grant amounts were increased for consistency with the Department's policy on subsidy stacking. This change should enable developers to fund programs from a single funding source, add consistency across similar HCD programs, and encourage more catalytic and innovative projects.

The proposed maximum Housing Development Loan amount for a single Housing Development or to a single developer is \$10 million.

The proposed maximum Program infrastructure Grant awarded to a Locality or transit agency for an Infrastructure Project is \$5 million.

The proposed total maximum award amount for a single Project is \$15 million.

For joint applications for a TOD Loan and a TOD Grant, the maximum award amount is \$15 million.

Section 106(b) – Assistance Terms and Limits, Rental Housing Development Loans

Rent limits for initial occupancy and for each subsequent occupancy of Restricted Units were modified for consistency with the MHP Program.

The use of multiple Department funding sources on the same assisted units (subsidy stacking) was prohibited to limit complicated and resource intensive projects and add consistency with the MHP Program.

Section 106(b) – Assistance Terms and Limits, Infrastructure Project Grants

The limit on infrastructure costs to enhance access to transit was removed. Connectivity is an important part of ridership, making the trips convenient and accessible. Ridership is a priority of the Program and connectivity should not be limited.

Section 107 – Performance Requirements

Performance Requirements were modified for (partial) consistency with the IIG Program.

Article 3. Application Procedures

Section 108(a) – Application Process

This section was modified for consistency with other Program updates.

Section 108(former 106(c)) – Application Process, Applicants

This section was moved to Section 104, Eligible Applicants.

Section 108(c) – Application Process, Distribution of funds

The requirement to award at least 50 percent of funds to Projects served by QTS not served by heavy rail was removed to accommodate the “Lost Generation Projects” – potentially successful projects that did not qualify for the Integrated Connectivity Project (ICP) component of the AHSC Program.

Section 109(a) – Application Threshold Requirements, Housing Developments

The threshold requirement for commencement of construction of the Housing Development was modified for consistency with the MHP Program.

The Infill Site threshold requirement for the Housing Development was added to clarify and incentivize Infill Sites as a priority.

The Applicant experience level was added as a threshold requirement for consistency with other HCD programs.

Section 109(b) – Application Threshold Requirements, Infrastructure Projects

The threshold requirement for commencement of construction of the Infrastructure Projects was modified for consistency with the AHSC Program.

The housing element and feasibility threshold requirements were updated for consistency with the IIG Program.

The provisions on cost effectiveness of pedestrian crossings and the exceptions to the affordable unit demolition requirements were removed to encourage a coexistence of pedestrians and bicyclists.

Section 110 – Application Selection Criteria

Selection criteria was modified for consistency with other HCD programs.

The following scoring categories were modified:

- The extent to which the Project will increase public transit ridership and minimize automobile trips
- Location in an area designated for infill or transit-oriented development, and where there is coordinated public and private investment
- The extent to which the Project incorporates walkable corridor and bicycle features
- Developer past performance
- Leverage

Section 110(a) – Application Selection Criteria, The extent to which the Project will increase public transit ridership and minimize automobile trips

30 points (maximum) were assigned to applications in which the best performing mode of transit serving the QTS has peak period headway frequency of 15 minutes or less. The table referencing peak periods was removed because the Department believes this will not increase density near Transit Stations. The Department would like to make policy direction towards denser development.

25 points (maximum) were assigned to Projects that encourage higher densities of Projects, replacing the provision to assign points based on the primary mode of transit serving QTS and the population density of the area within a 4-mile radius of the QTS. The scoring section was modified to incentivize high-density developments.

Section 110(b) – Application Selection Criteria, Location in an area designated for infill or transit-oriented development, and where there is coordinated public and private investment

The provision on Housing Developments located in an area designated for infill development and Projects that support GHG emission reduction was moved to the threshold requirement section of the Guidelines because this goal is implicit in the objective to increase transit ridership.

Points were revised for applications for Housing Developments located in areas designated for transit-oriented development in the applicable planning and/or regulatory documents to encourage funding projects local governments have planned for TOD.

Points were revised for coordinated public and private investments to transform areas into transit-oriented communities because current requirements were too low to transform areas into transit-oriented communities.

Section 110(c) – Application Selection Criteria, The extent to which the Housing Development serves Eligible Households

This scoring criterion was modified for consistency with the MHP Program and the decision to remove the homeownership component of the TOD Program.

Section 110(d) – Application Selection Criteria, Transit supportive land use

This scoring criterion was modified to address pedestrian connectivity of the Project site as determined by the US EPA Walkability Index.

Points awarded for Key Destinations were updated and a list of Key Destinations was modified for consistency with the AHSC Program.

Section 110(e) – Application Selection Criteria, The extent to which the Project incorporates walkable corridors and bicycle features

This scoring criterion was modified to allow more innovative interventions to improve walkability.

Section 110(f) – Application Selection Criteria, Parking alternatives and Micromobility

This scoring criterion was modified to reflect more recent mobility trends such as obligations to use transit passes, minimum parking requirements, parking alternatives, and alternative modes of transit.

Parking pricing – This criterion was removed from the point section for consistency with other similar HCD programs.

Transit Passes – In the TOD Round Three Guidelines, points are awarded for providing free or discounted transit passes for the term of the Loan or Grant (55 years), which may be too long without a subsidy from the transit agency. The criterion was modified for consistency with the AHSC Program.

Car share parking – This criterion was modified to restrict parking for car share only.

Maximum parking spaces – This criterion was modified to disincentivize parking oversupply and encourage public ridership.

Micromobility – This feature was added to acknowledge more recent mobility trends.

Section 110(g) – Application Selection Criteria, Readiness of the Housing Development Funding Commitments Levels scoring criterion was modified for consistency with the IIG Program.

Completion and approval or adoption of all necessary environmental clearances commitments criterion was modified for consistency with the AHSC Program.

Land Use Entitlement Status criterion was modified for consistency with the IIG.

Section 110 (former 108(h)) – Application Selection Criteria, Leverage

This point criterion was removed. Leverage was added to the Assistance Terms and Limits, Rental Housing Development Loans subsection of the TOD Round Four Guidelines.

Section 110 (former 108(i)) – Application Selection Criteria, Developer past performance

This point criterion was removed. Past experience was added to the Application Threshold Requirements Subsection of the TOD Round Four Guidelines.

Section 110 (h) – Application Selection Criteria, Adopted Economic Development Plan

This point criterion was modified because reference to Enterprise Zones does not apply any longer. The Enterprise Zone Program has been repealed by legislation and Opportunity Zones have been utilized in other HCD programs.

Section 110(i) – Application Selection Criteria, Accessibility to Qualified Employment Areas

The number of employees determined to be in a Qualified Employment Area was updated to simplify the requirements.

Article 4. Program Operations

Section 111(a) – Legal Documents, Rental Housing Developments

The legal requirements for Rental Housing Developments were modified for consistency with the MHP Program.

Section 111(b) – Legal Documents, Infrastructure Projects

The legal requirements for Infrastructure Projects were modified for consistency with the AHSC Program and for better understanding and consistency with other Program updates.